

REMARKS

Claims 1-9, 12-34 are pending in the application and are currently rejected. Claims 1 and 14 have been amended, and claims 10-11, 16, 21 and 29 have been cancelled. In light of the amendments and remarks herein, reconsideration of claims 1-9, 12-15, 17-20, 22-28 and 30-34 is respectfully requested, as the Applicants believe these claims are in order for allowance.

Amendments to the Specification

The Applicants disagree with the Examiner's conclusion that the term "motion sensor" is not used in the specification. However, to place the claims in order for allowance and avoid further prosecution, the Applicants have cancelled dependent claim 21, which is the only pending claim that specifically references a motion sensor.

Amendments to the Claims

While Applicants believe that the previously presented claims are patentable over all of the art cited in the Office Action as well as all other references submitted by Applicants, the claims have nonetheless been amended as follows in order to expedite the allowance of the claims. The amendments are therefore made without prejudice or disclaimer, and Applicants reserve the right to pursue the original scope of the claims as provided prior to the cancellation or amendments, such as through continuation practice.

Claim 1 is amended to additionally recite the limitations of dependent claim 16, which the Examiner indicated would be allowable if rewritten in independent form. Claim 1 now recites an apparatus having a set of bristles that further comprise one or more fluorescent, luminescent or lasing elements. Support for the amendment is found, among other places, in paragraph 095 of the application, which states:

In another embodiment, it may be desirable to release the optical energy in a dispersed pattern and reduce the formation of hot spots by doping the bristles, or improving emission spectra of the radiation sources. For example, the bristles can include a fluorescent material dispersed therein, which will fluoresce when

exposed to optical radiation. Alternatively, a lasing material can be used to dope the bristles, such as a dye.

Claim 6 is amended to more clearly distinguish between the radiation source and the emitter, and to clarify the structural relationship between these elements. Support for the amendment is found throughout the specification and in the parallel language of claim 1.

Claim 14 is amended to be dependent from claim 1, and is no longer dependent from now-cancelled claim 10.

As such, the amendments to claims 1, 6 and 14 do not add new matter.

Double Patenting

The Examiner provisionally rejected claims 1-5, 8-9, and 12-20 based on obviousness-type double patenting as being unpatentable over various claims in co-pending U.S. Patent Application Nos. 10/776,686 (the “‘686 Application”), 10/776,687 (the “‘687 Application”), and 10/777,022 (the “‘022 Application”). Each of the ‘686, ‘687 and ‘022 Applications are currently pending and non-final office actions have been issued in each of the applications. Because the Double Patenting Rejections in this application are provisional and the claims in this application are in order for allowance, the Applicants request that the Examiner withdraw the rejection in this case, and address any Double Patenting issues in the ‘686, ‘687 and ‘022 Applications, if necessary, as those applications are prosecuted. Assuming that otherwise allowable claims in the ‘686, ‘687 and ‘022 Applications would claim the same subject matter as the allowable claims of the present application, the Applicants are prepared to either file a terminal disclaimer or submit an appropriate amendment to the claims of each application to overcome any remaining obviousness-type double patenting objection.

Claim Rejections - 35 U.S.C. § 112

Claims 6 and 14 were rejected as being indefinite for failing to particularly point out and distinctly claim the subject matter that Applicants regard as the invention. Applicants have amended claims 6 and 14 accordingly.

To clarify the distinction and structural relationship between the source assembly and the second emitter, claim 6 has been amended to recite a parallel limitation regarding the source assembly and the emitter in Claim 1. Because the Examiner has indicated that Claim 1 would be allowable if rewritten in its present form, the Applicant's submit that the amendment to Claim 6 merely clarifies the relationship between the source assembly and second emitter as previously claimed and does not require additional examination. If the examiner disagrees, the Applicants are prepared to cancel claim 6 to place the claims in order for allowance.

Claim 14 has been amended to be dependent from claim 1 and is no longer dependent from cancelled claim 10.

Claim Rejections - 35 U.S.C. § 102 and § 103

Claims 1-8, 12-13, 15, 17-19, 23, 29-30, and 32-34 are rejected under 35 U.S.C. §102(e) as being anticipated by one or both of U.S. Patent No. 6,862,771 to Muller (herein "Muller") and U.S. Patent No. 6,902,397 to Farrell et al. (herein "Farrell"). Further, claims 9, 14, 20-22 and 24-28 are rejected under 35 U.S.C. §103(a) as obvious in light of either Muller or Farrell in combination with other art. These claims are novel, however, because Muller, Farrell and the other art cited fails to teach or suggest the elements recited in the claims as currently amended.

Claim 1 as amended recites an apparatus for treating tissue in an oral cavity comprising a plurality of bristles wherein the bristles further comprise one or more fluorescent, luminescent or lasing elements. The Examiner has indicated, with reference to previous dependent claim 16, that that limitation is not found in the cited art. Therefore, Applicants have amended claim 1 to include the limitations of previous (now-canceled) dependent claim 16. Applicants, therefore, submit that claim 1 is patentable.

Similarly, Claims 2-9, 12-15, 17-20, 22-28 and 30-34, which are dependent on Claim 1, are patentable for the same reasons.

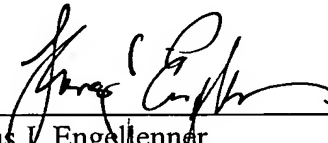
CONCLUSION

In summary, the above-identified patent application has been amended and is in order for allowance. Reconsideration is respectfully requested for all the reasons set forth above. In the event that the amendments and remarks are not deemed to overcome the grounds for rejection, the Examiner is kindly requested to telephone the undersigned representative to discuss any remaining issues.

Respectfully submitted,

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